

AMENDED IN SENATE MAY 8, 2014
AMENDED IN ASSEMBLY MARCH 20, 2014
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1610

Introduced by Assembly Member Bonta
*(Coauthors: Assembly Members Garcia, Gonzalez, Maienschein,
Skinner, Ting, and Waldron)*

February 6, 2014

An act to amend Section 1335 of the Penal Code, relating to material witnesses.

LEGISLATIVE COUNSEL'S DIGEST

AB 1610, as amended, Bonta. Material witnesses: human trafficking.

Existing law authorizes the defendant or the people, in cases where the defendant has been charged with a serious felony, as defined, or in a case of domestic violence, to have a witness examined conditionally, as specified, if there is evidence that the life of the witness is in jeopardy.

This bill would authorize the defendant or the people to apply for an order that the witness be examined conditionally when the defendant has been charged with human trafficking and there is evidence that the life of the witness is in jeopardy or that the witness has been threatened or dissuaded from testifying, or if the court finds there is a reasonable basis to believe that the witness will not attend the trial.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 1335 of the Penal Code is amended to read:

1335. (a) If a defendant has been charged with a public offense triable in ~~any~~ a court, he or she in all cases, and the people in cases other than those for which the punishment may be death, may, if the defendant has been fully informed of his or her right to counsel as provided by law, have witnesses examined conditionally in his or her or their behalf, as prescribed in this chapter.

(b) If a defendant has been charged with a serious felony or in a case of domestic violence, the people or the defendant may, if the defendant has been fully informed of his or her right to counsel as provided by law, have a witness examined conditionally as prescribed in this chapter, if there is evidence that the life of the witness is in jeopardy.

(c) If a defendant has been charged with human trafficking, as prescribed in Section 236.1, the people or the defendant may, if the defendant has been fully informed of his or her right to counsel as provided by law, have a witness examined conditionally as prescribed in this chapter if any of the following apply:

(1) There is evidence that the life of the witness is in jeopardy.

(2) There is evidence that the witness has been threatened or dissuaded from testifying at the trial.

(3) The court finds that there is a reasonable basis to believe that the witness will not attend the trial.

(d) If a defendant has been charged with a case of domestic violence and there is evidence that a victim or material witness has been or is being dissuaded by the defendant or a person acting on behalf of the defendant, by intimidation or a physical threat, from cooperating with the prosecutor or testifying at trial, the people or the defendant may, if the defendant has been fully informed of his or her right to counsel as provided by law, have a witness examined conditionally as prescribed in this chapter.

(e) For the purposes of this section, the following definitions shall apply:

(1) "Domestic violence" means a public offense arising from acts of domestic violence as defined in Section 13700.

- 1 (2) “Serious felony” means a felony listed in subdivision (c) of
- 2 Section 1192.7 or a violation of Section 11351, 11352, 11378, or
- 3 11379 of the Health and Safety Code.

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